

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. 1:CR-00-327-01
	:	(Judge Rambo)
V.	:	
	:	
TODD MELVIN SPEARS	:	

GOVERNMENT'S RESPONSE TO DEFENDANT'S RULE 35 MOTION

AND NOW, comes the government through Christy H. Fawcett, Assistant U.S. Attorney, and files the within Response to Defendant's Rule 35 Motion:

1. The defendant pleaded guilty to drug-related charged on February 12, 2001, and was subsequently sentenced.

2. On August 8, 2007, the defendant filed a motion which has been construed as a Rule 35(b)(2)(B) Motion in which he asks the Court to reduce his sentence because of information he provided to the government.

3. Specifically, the defendant states that during the cooperation phase of his plea agreement with the government, he provided information to investigators that Clifford Bradley was an important figure in the Harrisburg drug trade. He further states that Clifford Bradley was recently arrested and he believes he is entitled to receive a downward departure due to this arrest.

4. By order filed August 9, 2007, the Court directed the government to respond to the defendant's motion.

5. Rule 35 (b)(2)(B) of the Federal Rules of Criminal Procedure provides that upon the government's motion, the Court may

reduce the defendant's sentence if the defendant provided substantial assistance within one year of sentencing which did not become useful to the government until more than one year after sentencing.

6. In the present case, the defendant mailed a letter to undersigned counsel postmarked July 16, 2007, in which he states that he told investigators in 2001 about Clifford Bradley's illegal drug activities and may now be able to assist in the prosecution of Clifford Bradley. Counsel for the government did not provide this letter to DEA because the defendant has been incarcerated constantly since 2000 and most of that period of incarceration has been in a federal facility out of the Harrisburg area. Thus, it was unlikely that this dated information would be useful.

7. Counsel for the government cannot confirm that the defendant provided information concerning Clifford Bradley during 2000 or 2001 because those files have been destroyed. However, for purposes of this response, the government accepts the defendant's representation that he did provide such information.

8. Counsel for the government spoke to DEA Agent Bill Cook and Harrisburg Detective Sean Cornick, the two law enforcement officers who were the primary investigators in the pending case against Clifford Bradley and his son. Both investigators stated they were not familiar with the defendant and the defendant's information did not play any role in their investigation and arrest of Clifford Bradley and his son.

9. Under these circumstances, the defendant's information cannot be characterized as "substantial assistance" that would entitle him to a motion under Rule 35 (b) (2) (B).

10. For the benefit of the defendant, counsel for the government notes that the defendant's letter postmarked July 16, 2007, also contains information concerning drugs currently being smuggled into FCI Fort Dix. Counsel for the government has provided the letter to the FBI. Should any arrest or prosecutions result from the defendant's information in this regard, the government will file an appropriate motion under Rule 35.

WHEREFORE, the government requests the Court to enter an order denying the defendant's Rule 35(b) (2) (B) motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That this 30th day of August, 2007, she served a copy of the attached

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by electronic means and/or by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania to:

Melvin Spears
10565-067
Sho
Federal Correctional Institution
P.O. Box 7000
Fort Dix, 08640

s/Phyllis M. Mitchell
PHYLLIS M. MITCHELL
Supervisory Legal Assistant